

MINUTES OF THE BOARD OF ADJUSTMENT OF THE TOWNSHIP OF PENNSAUKEN

A public meeting of the Zoning Board of Adjustment of the Township of Pennsauken, in the County of Camden, in the State of New Jersey was held on the above date via Zoom Video Communications. Chairwoman Butler called the meeting to order at 7:00 P.M. and led the flag salute. Roll call disclosed the following members present: Paul Hoyle, Lou Morales, Shirley Butler, Darlene Hannah, Diane Piccari, Patrick Olivo and Duke Martz. Acting Solicitor Steve Boraske, Esq., Zoning Board Engineer, Douglas White Planning and Zoning Coordinator, Gene Padalino and Secretary Nancy Ellis were also on the video call.

The Chairwoman announced that the meeting was being held in accordance with the Open Public Meetings Act, notice has been sent to two local newspapers, and also posted on the Bulletin Board in the Municipal Building.

Patrick Olivo assumed the seat of absent member Lysa Longo.

HEARINGS:

PHILLIP 5115 LLC (Continued from August 5, 2020) - Seeking a use variance and bulk variances to permit the continued use of a wholesale establishment in the R-2 zone and to permit a portion of the proposed employee parking in the R-2 zone. The Applicant intends to convert the interior of the existing building into three (3) retail rental units, which would front along Route 38, and keep the rear of the building reserved for warehouse and associated office space for the existing wholesale use. The Applicant does not propose any changes to the footprint of the building. The proposed rental unit would be located in the in the C-2 zone and within the limit of permitted commercial zoning per mitted by Section 141-72(D) of the Township's ordinance. Property located at 5115 Route 38, Block 6001, Lot 55 in the R-2 and C-2 Zoning Districts.

Ms. Laura D'Allessandro, Esq., came forward to represent the applicant. Ms. D'Allessandro stated that this application was before the board on August 5, 2020 for a use variance and should it be granted this evening, they will be required to return for site plan approval at a later date. Ms. D'Allessandro further described the application in that the applicant is seeking a Use Variance and the property is located in a split lot. A portion of the lot that is on Route 38 is in the C-2 Commercial Zone and a portion of the lot in the rear is located in the R-2 Residential Zone. The applicant would like to continue the wholesale beauty supply use and also lease the 3 vacant spaces which are in the Commercial Zone. The applicant has taken into consideration the board's comments and concerns and has come back with a revised Use Variance plan which has been previously submitted and marked into Evidence as A-5. Ms. D'Allessandro stated that they have decreased the size of each unit to 1,200 SF, they added parking, landscaping and fencing along the rear of the property to the revised plan. Med Care will be occupying one of the spaces for retail so they will be there will be two spaces that will be available for lease and marketed for retail and café/restaurant use with limited seating. The revised plan also shows that there are 30 parking spaces at the site, which meets the requirements for the proposed uses at the property.

Mr. Terrance Combs, Professional Planner, Petite Group, Sewell NJ came forward to testify and was duly sworn by the Solicitor.

Mr. Combs described his credentials and the board accepted him as an expert witness.

Mr. Combs testified that he is familiar with the property and took part in designing the plan marked into evidence as A-5. Mr. Combs described the changes that were made to the proposed plan since the hearing on August 5th. Mr. Combs testified that they reconfigured the retail area in and each space will be 1,200 SF. The existing property is all paved. They will be paving an additional area at the rear of the site for parking and add grass and shrubbery to the site which will reduce the amount of impervious coverage. Mr. Combs testified that they require bulk variances, all of which are for preexisting, nonconforming conditions at the site. They will also be adding a patio with a seating area and a water feature at the front of the site as well. Mr. Combs further stated that the retail spaces as well as all of the activity such as the loading and trash removal will be within the C-2 Zone. The only activity that will take place in the R-2 Zone at the rear of the building will be employee parking, which will not have an impact on the residential area. Mr. Combs stated their original plan included 26 parking spaces and

they have increased the parking to 30 spaces which will meet the parking requirements for employees, retail and a café/restaurant with limited seating. They have expanded the trash enclosure area and it will be kept at the same location near the driveway for easy access. They will be adding a screen of shrubbery at the rear of the property along the residential area, in the drive islands and along the back of the building facing Garden Avenue to improve the aesthetics of the property.

The applicant submitted a Conceptual Building Rendering and it was marked into evidence as A-6.

Mr. Combs testified that the Conceptual Building Rendering shows the building as it exists with new finishes on the exterior, the 3 retail spaces, the patio area in the front with a few tables and a lawn area between the right of way and Route 38. Mr. Combs further testified as to the positive and negative criteria for the Use Variance. Mr. Combs stated that the site is particularly suited for the proposed use. There is an existing commercial use at the site, there are similar uses adjacent to the site and the use promotes the general welfare of the public. It's located on a main Thorofare in the township, they will be improving the visual environment at the site, they will be developing a more sufficient use of the land and there is no substantial impact to the public good. The site is already being used as a commercial property and they are not changing it, traffic impact is minimal, and all the activity will be in take place in the C-2 Commercial Zone. The use will not substantially impact the Zoning Plan or the Land Use Law. Mr. Combs further testified that the benefits and the improvements that will be made at the site outweigh any negative impact.

Upon query, the applicant informed Miss Piccari that there will be 9 employee parking spaces at the rear of the building. However, a few spaces may be used for employee parking in the front of the building.

Upon query, Miss Piccari was informed by the applicant that they will be removing an existing fence in the rear of the building and replacing it with a solid, vinyl fence.

Upon query, Mrs. Butler was informed by the applicant that any lease would have to meet the parking requirements of the township.

Upon query, Miss Hannah was informed by the applicant that Med Care already exists at the property and they would hope to lease the remaining spaces within 4 to 6 months.

Upon query, Mr. Hoyle was informed by the applicant that there is a driveway in the commercial area and all activity will take place in the commercial zone, the property will be fenced in and away from the residents.

Mr. Martz commented he was happy with the plan the applicant presented and suggested a sign be placed at the driveway to patten traffic toward Route 38 in order to avoid additional traffic going through the adjacent residential neighborhood.

Mr. Phil Do, owner of the property came forward to testify and was duly sworn by the Solicitor.

Mr. Do thanked the board for considering his application. He further commented that he employs local residents, his wish is to beautify his property and give back to the community.

Upon query, Mr. White was informed by the applicant that they will include in their site plan the outside seating count for parking spaces and they do not intend to use the existing loading dock closest to the trash enclosure.

Ms. D'Allessandro stated the applicant agrees to Mr. White's conditions and will prepare their site plan accordingly. Also, they are hoping to market the spaces as retail, café/restaurant with limited seating. However, they will not rule out the potential for the space to be used as a business office.

Mr. White stated that the applicant should also include and request a variance from the township ordinance 141.87.A.2.M, which requires the applicant to have available parking for the future for the warehouse use.

The meeting was open to the public.

Mr. George Tutwiler, Property Manager at Saigon Plaza, 5201 Route 38 came forward to testify and was duly sworn by the Solicitor.

Mr. Tutwiler stated he is concerned that since the end unit of the applicant's building is close to their driveway at the adjacent property, he requested that the applicant move their proposed fence up approximately 8 feet for pedestrian safety. Other than that, Mr. Tutwiler stated the project looks nice and it will be beneficial to the area.

There being no one else who wished to speak, the meeting was closed to the public.

The Solicitor made the following factual findings: This is an application for Phillip 5115, LLC. The property is located at 5115 Route 38, Block 6001, Lot 55 located in a split lot located partially in our commercial C-2 Zone and partially located in our residential R-2 Zone. The applicant seeks a use variance to use the existing commercial property for retail rental unit and a wholesale use, where the use is permitted as to the C-2 portion of the property but it is not permitted in the R-2 portion of the property. The applicant testified that almost all of the commercial use and activity would be accruing on the commercial portion of the lot. However, because of where the zoning boundary is, the applicant technically still requires the Use Variance for the residential portion of the property. In addition to the Use Variance, the applicant also requires a number of bulk variances. These include bulk variance relief for the minimum side yard, bulk variance for the maximum building coverage, maximum lot coverage, minimum side yard and minimum parking size. These variances are set forth in the Zoning Board Engineer's review letter as well as in the applicant's resubmission of the application and was testified by the applicant's professional planner. The variances are preexisting, non-conforming conditions. However, the applicant is seeking to memorialize the relief with respect the bulk C variances in addition to the Use Variance. The applicant's profession planned testified as to the positive criteria, explaining first that it is a split lot zone. Split lot zones can impose a hardship on applicants just by there very nature. Since a majority of the property permits the use where a small majority of the property does not, it results in a hardship and the owner of the property could only use a portion of the property in order to conform with the ordinance. The applicant's professional planner did testify to a hardship for the positive criteria and he also testified that the site is suitable for the proposed commercial use. The entirety of the site, mainly giving its location in the township and it's adjacent to similar uses and the fact that the majority of the site is approved for the commercial use and it's only the residential portion that requires the Use Variance relief. For the negative criteria, the applicant's planner testified that there are none because it will not change in the nature and character in the neighborhood nor will there be any material adverse impact on the neighbors, particularly because the property is located on a major commercial Thorofare in the township. On balance, the applicant's planner testified that the benefits of the application outweigh any negatives such that it was the planner's professional opinion that the Use Variance should be granted. As for the C1 and C2 bulk variances for the non-conforming conditions, the board can consider the same criteria that it considers for the Use Variance, the advancement of the purposes of the land use law and whether the conformance with the bulk standards imposes any hardships on the applicant. The applicant has agreed to come back to the board for site plan approval at a later date.

Miss Hannah motioned to accept the fact finding. Miss Piccari seconded.

Mr. Hoyle motioned to grant the Use Variance. He stated that he believes that the proposed is a suitable use for the property, it's commercial in nature and the proposed upgrades to the property will be a vast improvement along Route 38. Mr. Hoyle further stated that he believes it would be a hardship if the applicant wasn't granted the variance. Mr. Morales seconded. Roll call: Paul Hoyle, Lou Morales, Shirley Butler, Darlene Hannah, Diane Piccari, Patrick Olivo and Duke Martz-Aye. None Opposed.

Miss Hannah motioned to grant all the requested bulk variances. She stated she believes that the proposed use promotes the land use laws and the benefits outweigh the negative. Miss Piccari seconded. Roll call: Paul Hoyle, Lou Morales, Shirley Butler, Darlene Hannah, Diane Piccari, Patrick Olivo and Duke Martz-Aye. None Opposed.

MINUTES:

It was moved, seconded and unanimously agreed to approve the meeting minutes from August 19, 2020.

RESOLUTIONS:

Resolution # Z-2020-13 granting **JOSEPH CUMMINGS** 5 feet of relief from the side yard setback requirement of 5 feet for a (6' x 18'x 8') shed and any other variances and waivers that may be required by the Pennsauken Zoning Board. Premises located at 2540 Oakley Drive, Block 3504, Lot 17 in Zoning District: R-1.

Resolution # Z-2020-14 granting **JONATHAN BOZARTH** approval to build a 30' x 40' detached garage which will exceed the maximum accessory structure size of 400 square feet as per Township Ordinance 141-78(B) and any other variances and waivers that may be required by the Pennsauken Zoning Board. Premises located at 8710 Herbert Avenue, Known as Plate 37, Block 3707, Lot 1 on the Tax Map of Pennsauken, Zoning District R-3.

Resolution # Z-2020-15 granting **CODY LEVINE** approval to build a 24' x 31' detached garage, 15'. 8" in height which will exceed the maximum accessory structure size of 400 square feet as per Township ordinance number 141-78(B). The applicant also seeks 6 feet of relief from the front yard setback requirement of 30 feet and any other variances and waivers that may be required by the Pennsauken Zoning Board. Zoning District R-2.

BILLS:

None

COORDINATOR'S REPORT:

None

There being no further business; it was moved, seconded and unanimously agreed to adjourn the meeting at 8:45 P.M.

Respectfully submitted:



Nancy L. Ellis, Board Secretary